IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 300 OF 2007

IN

FAMILY COURT APPEAL ST. NO. 23197 OF 2007

Dr. Sumesh Shamrao Kamble. .. Applicant.

vs.

Kumudini Sumesh Kamble. .. Respondent.

Mr. Atul B. Deshkar for Applicant.

Mrs. Kumudini Sumesh Kamble respondent in person.

..

CORAM: J.N. PATEL &

A.A. SAYED, JJ.

DATE: 2ND NOVEMBER, 2007.

P.C.

. The applicant is present with his advocate. The respondent-wife is present with the child.

2. Heard. The learned counsel for the applicant submits that the application for condonation of delay be allowed as the impugned order is passed ex-parte and he did not get an opportunity to contest the matter and was required to suffer three months of imprisonment in

default of non-compliance of the orders of the Family Court in paying maintenance.

3. On the applicant-husband paying to the respondent-wife a sum of Rs. 2000/- as cost and Rs. 10,000/- as initial expenses towards litigation by tomorrow i.e. 3rd November, 2007, the application for condonation of delay is allowed.

4. The learned counsel for the applicant further makes a statement that the applicant will give an undertaking to this effect and also a further undertaking that he will pay a sum of Rs. 25,000/- within two weeks to the respondent-wife. On such undertaking being filed, there will be stay of execution proceedings in the Family Court till 28.11.2007. The Family Court Appeal be listed before the Court on 28.11.2007 for admission and further orders. The undertaking be filed today itself. The Court accepts the undertaking given by the applicant-husband. It is made clear that if the applicant commits breach of the undertaking, in addition to suffering the consequences of not complying with the undertaking, the application for condonation of delay will stand rejected without any further reference to Court and the Family Court would be at liberty to proceed with the execution proceedings.

(J.N. Patel, J.)

(A.A. Sayed, J.)